

IN THE UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

IN RE: : CASE NO. 07-11770  
NICHOLAS W. HIRSCHAUER : CHAPTER 13  
  
DEBTOR(S) : JUDGE BURTON PERLMAN  
  
: **TRUSTEE'S RESPONSE TO MOTION FOR  
PAYMENT OF UNCLAIMED FUNDS**

Comes now the Chapter 13 Trustee, Margaret A. Burks, in response to the Motion for Payment of Unclaimed Funds (Doc. 44) states as follows:

The Motion filed by Dilks & Knopik, LLC, assignee of PNC Bank, National Association, successor to National City Bank, makes a patently incorrect statement. The Motion asserts that funds became available because the creditor's predecessor failed to receive the check or did not negotiate the check because the original dividend check National City Bank was sent to an address that is no longer valid.

In fact, all disbursements to National City Bank were cashed. The last disbursement to National City Bank was sent on February 24, 2011. That and all prior disbursements were "cashed" by National City Bank.

The Trustee's Final Certification was filed on July 27, 2011; her Final Report was filed on September 27, 2011. The Trustee thereafter received a refund of \$310.61 in November, 2011, and this amount does not match the amount of any specific disbursement to National City Bank. In short, it was a failure to deliver a disbursement to National City Bank that led to these funds' return to the Trustee.

The Trustee does not file her Final Report until all checks have cleared or are accounted for.

Creditor returned funds which Trustee paid pursuant to creditor's claim. When funds were returned, the Trustee had filed her Final Report, so Trustee has turned over the funds to the Registry Fund pursuant to 11 U.S.C. Section 347(a) and Federal Rule of Bankruptcy Procedure 3011. The Trustee has no objection to the release of the funds from the registry, but takes exception to the factual errors asserted in the Motion.

Respectfully submitted,

/s/ Margaret A. Burks, Esq.  
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Chapter 13 Trustee  
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CERTIFICATE OF SERVICE

I hereby certify that on month date December 10, 2014 a copy of the foregoing Response to Motion for Payment of Unclaimed Funds was served on the following registered ECF participants, electronically through the Court's ECF System at the e-mail address registered with the Court:

U.S. Trustee  
36 East Seventh Street  
Suite 2030  
Cincinnati, Ohio 45202

Michael E. Plummer & Assoc.  
11 W. Sixth St.  
Covington, Ohio 41011

and on the following by ordinary U.S. Mail addressed to:

Nicholas W. Hirschauer  
8100 Clough Pike  
Cincinnati, Ohio 45244

Dilks & Knopik, LLC  
Attn: Brian J. Dilks  
35308 SE Center St.  
Snoqualmie, WA 98065

/s/ Margaret A. Burks, Esq.  
Margaret A. Burks, Esq.